

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

DOROTHY CATHERINE BRAGA, by and
 through the Conservator of her Person and
 her Estate, Mary Ann Warren, the Public
 Guardian of the County of Santa Clara,

Plaintiffs,

v.

STEPHEN JOSEPH BRAGA,
 Defendant.

Case No. 21-cv-06331-BLF

**ORDER REMANDING ACTION TO
 SANTA CLARA COUNTY SUPERIOR
 COURT**

Defendant Stephen Joseph Braga removed this probate action from the Santa Clara County Superior Court on August 16, 2021. *See* Not. of Removal, ECF 1. On September 8, 2021, this Court *sua sponte* issued an Order to Show Cause why the action should not be remanded for lack of subject matter jurisdiction. *See* OSC, ECF 8. The Court noted that the action appears to fall squarely within the probate exception to federal jurisdiction, citing *Goncalves By & Through Goncalves v. Rady Children's Hosp. San Diego*, 865 F.3d 1237, 1251 (9th Cir. 2017). The Court also advised that Defendant's reference to federal statutes in the Notice of Removal could not confer federal jurisdiction, as "[f]ederal jurisdiction cannot be predicated on an actual or anticipated defense." *Vaden v. Discover Bank*, 556 U.S. 49, 60 (2009). The Court directed Defendant to respond to the Order to Show Cause by September 22, 2021, and it stated that if Defendant failed to respond, or did respond but failed to establish a basis for federal jurisdiction, the action would be remanded.

1 Defendant has not responded to the Order to Show Cause. The Court has confirmed with
2 Clerk's Office staff that the Order to Show Cause was mailed to Defendant's address of record on
3 September 9, 2021. Accordingly, this case is HEREBY REMANDED to the Santa Clara County
4 Superior Court for lack of federal jurisdiction.

5 Plaintiff's motion to remand, filed on September 14, 2021, is terminated as moot.

6 The Clerk shall close the file.

7 **IT IS SO ORDERED.**

8
9 Dated: September 29, 2021

10 
11 BETH LABSON FREEMAN
12 United States District Judge
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28